

# **MEETING OF THE BOARD OF CREDIT UNION ADVISORS**

January 20, 2015

1:00 pm

Utah Department of Financial Institutions  
324 South State Street, Suite 201  
Salt Lake City Utah

Minutes

## **BOARD MEMBERS PRESENT:**

Kent Greenfield, Meagan Nattress, Ilene Rollo and Scot Baumgartner  
Dean Hirabayashi (excused)

## **DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:**

Ed Leary, Paul Allred, Riley Bergstedt, Darryle Rude, Sonja Long and Joni Woods.

## **OTHERS PRESENT:**

Stephen Nelson from Utah's Credit Unions

**1. Call meeting to order – Scot Baumgartner**

**2. Minutes (2 sets)**

Scot motioned for the minutes of July 8<sup>th</sup>, 2014 and October 7<sup>th</sup>, 2014 to be approved. Meagan Nattress and Ilene Rollo seconded the motion.

**3. Introductions**

Joni Woods is the new Administrative Secretary.

**4. Elect New Chairman and Vice Chairman**

Scot motioned Dean Hirabayashi to be nominated as New Chairman. Ilene motioned Scot Baumgartner to be nominated as Vice Chairman. It was

seconded by Meagan. It was unanimous and they will stand in those positions for another year.

## **5. Legislative Update – Paul Allred**

Paul handed out a copy of the Senate Bill 24. Monday January 26<sup>th</sup>, 2015 is the beginning of the Legislative session. Last meeting he indicated what they were planning on doing. The bill came out of the interim committee as a committee bill in November. The bill was numbered and presented out as Senate Bill 24. It is public and out, so the summary I will share with you. It takes our other non-depository lenders and moves them onto the National Mortgage Licensing System (NMLS) also known as the National Multi-State Licensing System. We put the Pay Day Lenders on that system and they had to register through that system in 2013. The plan was to use that as a pilot to see how it ran and see if there were any problems. If it ran smoothly, we will move the other non-depository lenders (title lenders, escrow agents, money transmitters and mortgage lenders) on to the system. They register through a national database so they only have to go one place if they are in multiple states. We have been licensing money transmitters here in the department since the mid-90's. We've done it under an administrative rule. So, if you are engaging in money transmissions in the State of Utah you have to get a license from the department unless you meet one of the exemptions, of which depository institutions are exempt. Money transmitters (Ex: Money Gram) large ones and including the small ones, have to get a license here in Utah in order to transmit money on behalf of Utah citizens. We have 74 money transmitters licensed with us of which two are headquartered here in Utah and the rest out of state. The Commissioner wanted to move that out of administrative rule into our Title 7 and make it statute. Senate Bill 24 creates Chapter 25 which is the Money Transmitter Act.

Ilene brought up that she had an email in regards them changing the federal business lending to allow more areas of the state. If it is going to be changed federally in the next year that it may be something that we may want to look at also. Darryle asked, so you say NCUA is expanding their member of business lending to rural counties? Ilene said yes, they are looking at the possibility of more counties than the two that they are allowing now. I received an FYI email in December. Darryle said, I wonder if is an expansion of the field of membership with NCUA or?? Ilene said it's a field of membership that is allowing and also member business loan.

Riley mentioned that the risk based capital they have out for credit. There has been some other traffic and emails out from NASCUS that hasn't been out for commentary but it is coming. There will be a 90 day comment window for that. Ilene said that this is another reason that they are looking at going federal because of the 50K. If they didn't have that they wouldn't have any problem with the ceiling. They have 150K left, for one loan basically that they could loan out. This is another reason people will look at and see if they can expand their membership they may go federal.

Scot asked one more question on SB24: Even though these lenders are not doing mortgage lending, it falls under the NMLS?

Paul said right now that we have certain entities that are primarily servicers, and are not required to register through NMLS under the SAFE Act. So we want to make that a requirement which will help them out because the majority of them operate in more than one state. Most of the states require them to go through NMLS even though they are not doing mortgage loans. Sonja said that the NMLS does very little mortgage and more of other for its registration. Commissioner Leary stated, technically it is no longer even the Mortgage Licensing System it is the Multi-State Licensing System.

Paul said that under the Safe Act that if you are a loan originator that you are required to license through that system. What we have done, we have put the payday lenders out there because it is a great system that all the states can have access to. It is good for those that operate within multi state environments. We have had a group of folks that are involved in the mortgage business that have to register with us but don't have to through NMLS so we thought that we would bring them on. By law, only loan originators have to register through the NMLS system. Your loan officers have to register thorough the NMLS system they don't have to license for mortgage. We are trying to benefit from the system by this being an online process to take care of. The core of the bill is to move the money transmitter regulation over from rule to statute. Ilene asked about a money transmitter that transmits money to Mexico. If she is an agent for a money transmitter then she doesn't have to have a license, the company does. The Credit Union itself doesn't need to register if you offer money transmission services to the members.

Scot asked what the advantages of moving it from rule to statute.

Commissioner Leary said that we get the rest of the body of the statutory provisions in Title 7 if we move into that Title we have the clear examination authority. A whole body of laws that banks credit unions is

already under and that we operate in. This way we have the authority to write rules. Money transmitters are being used for money laundering, terrorist financing, and a number of other things which then we have been drawn into 3 interstate examinations. It would be a lot better if we had clear statutory authority from the legislature. Paul mentioned that the majority of the states that require a license have it in their statute, we were one of the few that didn't. There was an article in the Tribune on Friday that the reporter loves to do on Pay Day stories, did an article on Rep Daw who is going to run a bill this session dealing with Pay Day lenders. He was part of the John Swallow story so he is from the Provo, Utah County area and was voted out of office because of the efforts of the payday industry. He vowed to get re-elected and come back and make sure that the industry was adequately regulated according to his definition. He had several bills in his prior representation that didn't pass. Scot asked what that bill is likely to entail. Paul answered, well with what he has done in the past, is he would like to have a database. So the idea behind the data base is everyone that gets a payday loan in the state of Utah, their information would be housed on this database and so lenders would know who has had loans and who currently has a loan. He would like to limit borrowers to one loan at a time. That is difficult for the payday lenders to do unless they have a resource like the database to go check. For example, if someone shows up at payday lender A and takes out a loan and then goes down the street to payday lender B, unless there is a way for Lender B to check, they don't know that he has already got a loan out. Ilene asked if there was a way for all financial institutions to do a credit bureau. Paul said that there is nothing in Utah law that requires it. Darryle said if someone fails to state the on their application that they have, you can hold that against them, that is fraud. Scot asked if there were any thoughts on what is going to happen with the business lending limit. Paul said that we didn't put anything in our bill dealing with that. Scot said there was yearly increase coming at the end of the year with the CBI index. Ilene said they were looking at field of membership and business lending changes.

Darryle said that while they were in San Francisco with the eight western states and no one mentioned that. Oregon talked about their Credit Union grope because they as a state expanded their field of memberships and there were a lot of federals converting to Oregon state charters. Ilene stated that this would be another reason for state to lose Credit Unions to federal.

**6. Updates – Riley Bergstedt**  
**NASCUS Accreditation**  
**Examination Process**  
**ZIX encrypted email**

Riley has three items to address.

Starting tomorrow we will have the National Association of State Credit Union Supervisors onsite for our examination which happens every 5 years for our accreditation. We have gone through and put together a very extensive pre-exam request item list including six binders that we have electronically sent to their review team of three. NASCUS accreditation will be reviewing six areas: department of administration of finance, personnel, training, examinations, supervision and legislative powers. This is something that the department takes very seriously and making sure our examiners are getting their training and are doing the correct things in the exams that we are doing at the Credit Unions. They will spend two days onsite and an exit meeting on Friday. Steve asked what percent of states have Credit Union examiner departments that are accredited. Riley deferred that question and Commissioner Leary said that the number is not as high as CSBS. He said it's in the mid 30's and Darryle said he thinks that it is 38. Not all states have state chartered Credit Unions, Wyoming is a perfect example of that. Riley has a meeting with NCUA for State Credit Union Supervisors with what their overview or look is for the year. That will be held in March and there will be a regional breakout with Liz Whitehead (region 5 office) there as well.

Next item is Exam Processes, thanking Steve and Marilyn for inviting Riley. Riley jotted down three items that he got feedback on with things that they see on exams. 1) When examiners come onsite they should request a tailored list to the Credit Union being examined. 2) Don't overburden small Credit Unions with a lot of examiners. 3) Don't get caught up on one thing at one shop that you saw at another. Focus on each particular shop separately. We are looking at late fees on section 70C, there are a lot of questions on this.

The next topic is information safety. With the FDIC they have FDIC connect which is a secure portal. Every bank has access to upload it on to this site. Riley handed out info about email correspondence to transfer messages from examiners to credit union that is secure (the encrypted email is called

POSTINI with ZIX corp). An examiner would send an email and it would start with "SM:" (secured email) and the Credit Union would set up an account and password on this system. This would avoid the need for a thumb drive, disk or paperwork and the risk of that being lost or compromised. You wouldn't have to print out paperwork so you will be able to just download the information and this would keep everything secure and private. There is no cost to it. Meagan asked the question, how do you determine the length of your exam. She said they have never had an exam that has taken more than 4 days and they have one scheduled for nine days (Feb 3- Feb 13) and they are in one office, in one room. Riley said it is generally the previous experience and the asset size of the institution that determines the length of the exam. Darryle said if there are preferences, if you want more people for fewer days or less people for more days, just let Riley know so we can adjust or accommodate you.

## **7. Chief Examiner Issues –**

Darryle Rude said that Riley mentioned the NASCUS re-accreditation; this is our 4<sup>th</sup> or 5<sup>th</sup> trip. This will be headed up by Roger Little who is a former supervisor of Credit Unions from the state of Michigan and now works for NASCUS. He will be coming with two other supervisors, Tammy Small from AZ, and Pat Murphy from Tennessee. They will be here for three days starting tomorrow, January 21<sup>st</sup>. Commissioner Leary said, enjoy the thought, we are being examined too. Darryle mentioned that we are starting the hiring process again to hire three more examiners. They will be taking the initial test next Monday. Scot asked, what is your full examiner roster? Darryle stated that it is 41 and we are currently at 38.

The Federal Reserve made a presentation to us out of the St Louis fed. They have an emergency communication system that they are remarketing. They started it 5, 6, or 7 years ago and several states mostly in the eastern US participate in it. The depository institutions sign up, they administer the program where the Commissioner has the authority to activate the system and he can use certain types of institutions, zip codes, county, or cities. It is a voluntary sign up so we would send out notice to the institutions in the state of Utah and ask them if they want to participate. The institutions put on as many as seven contacts and then put down demographics around their office, what counties they operate in and in case of an emergency, we would communicate through that system in addition of any other way we could get a hold of you. It is tested periodically by the St Louis Fed, so they send out

email or phone call to ensure that you are still current on it. It has been effective in other parts of the country, as in Louisiana with the hurricane and was very valuable to them.

**8. Commissioner Comments** – Commissioner Leary said he had nothing else to add.

**9. Other Items**

**10. Next Meeting – April 16, 2015 at 1:00**

**11. Adjourn**